THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.34016 of 1998

Date : 1.11.2007

Between:
E. Govardhan Rao

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PETITIONER
AND

The Chief Operating Manager,
South central Railway, Rail Nilayam,
Secunderabad and others.

.....RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.34016 of 1998

ORDER: (per Smt. T.Meena Kumari,J)

The petitioner filed the present writ petition seeking a writ of Certiorari to call for the records relating to and connected with the order dated 23.6.1993 in O.A. No. 591 of 2005 on the file of the Central Administrative Tribunal, Hyderabad and to quash the same. He also sought for a consequential direction to the respondents 1 to 3 to restore the petitioner to the grade of Station Superintendent in the scale of Rs. 2000-3200 by extending all consequential benefits, including the arrears of difference of pay and pass such other order or orders.

The brief facts of the case are that the petitioner herein was working as Station Superintendent in the grade of Rs. 2000-3200 at Rechni road, Railway Station. While so, he was served with a charge memo for the imputations of mis-conduct set out in the said charge memo. Petitioner, thereafter, submitted his explanation to the same. In the meanwhile, the said charge sheet was withdrawn on the ground that the rules were quoted incorrectly. Thereafter, the respondents issued charge memo bearing No. C/T5/GB5/464/RECH/93-94, dated 22.4.94 for the following charge:

> "Shri B. Govardhana Rao, SS/Rech, while on duty as S.S. at RECH station on 7.3.94 failed to ensure proper clamping and padlocking of point No..23, while admitting Train No. down white field goods on goods Loop Line No.2, as a result of which 5 BCN loaded wagons derailed. He thus violated Sr. 3.38 (8)3(iii) of 1978."

Petitioner, thereafter, submitted his representation to the said charge memo and thereafter, an enquiry officer was appointed to conduct enquiry into the matter. The enquiry officer after conducting enquiry into the matter, submitted his report holding the charge framed against the petitioner as proved. The disciplinary authority after going through the explanation of the petitioner and the report of the enquiry officer, while agreeing with the findings of the enquiry officer, imposed the punishment of removal from service. Aggrieved, petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent while disposing of the appeal, modified the punishment of removal to that of reinstatement and reduction to lower grade of Rs. 1400-2300 (RSRP) for a period of three years with cumulative effect. He further directed that the period from the date of removal till the date of reinstatement be treated as leave without pay. Aggrieved, the petitioner carried the matter before the revisional authority, the 1st respondent herein. The 1st respondent modified the penalty imposed by the appellate authority to that of reduction to the post of A.S.M. in the scale of 1400-2300 on pay of Rs. 1400/- for a period of three years (non-recurring). Aggrieved by the same, the petitioner preferred O.A. No. 591 of 1995. The Tribunal, by the order impugned in this writ petition, dismissed the O.A. Hence, the present writ petition.

Learned counsel for the petitioner contended that there is no evidence on record to prove that the charges levelled against the petitioner are proved and hence the Tribunal, erred in dismissing the O.A. He, therefore, submits that the writ petition be allowed and the order impugned be set aside.

Leaned Standing Counsel for the Railways, on the other hand, supported the impugned order and prayed that the writ petition be dismissed.

Admittedly, The disciplinary authority, after taking into

consideration the report of the enquiry officer and having perused the explanation of the petitioner, found that the petitioner failed to follow the subsidiary Rules under "Rule No. 38.3(8), 3(ii)(iii), provided in the General Rules for Indian Railways with subsidiary Rules and Special Instructions of South Central Railway" and he also failed to ensure correct setting of points and held that the mis-conduct levelled against the petitioner as proved and accordingly, imposed the punishment of removal from service. On an appeal preferred against the said order, the appellate authority, through order dated 7.7.2004, while modifying the order of the disciplinary authority, reduced the punishment to that of reinstatement and reduction to lower grade of Rs. 1400-2300 (RSRP) for a period of three years with cumulative effect. Against the said order of the appellate authority, the petitioner preferred a revision before the revisional authority. The revisional authority further modified the penalty imposed by the appellate authority to that of reduction to the post of Assistant Station Master in the scale of pay of Rs. 1400-2300 on a pay of Rs. 1400/-(non-recurring).

In view of the gravity of the mis-conduct alleged and proved against the petitioner, it cannot be said that the penalty of reduction to the post of Assistant Station Master in the scale of pay of Rs. 1400-2300 on a pay of Rs. 1400/- non-recurring, as imposed by the revisional authority, is unjust or illegal. The Tribunal taking all these aspects into consideration, rightly dismissed the O.A.

In the circumstances, we do not find any illegality or irregularity in the order of the Tribunal warranting interference. The writ petition fails and it is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 1st November, 2007

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G. CHANDRAIAH,J

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